IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3042 OF 2006

Ajit Balram Raut .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Kuldip Patil for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 16th August 2006

P.C.

. Heard Mr.Patil for applicant and Mr.Pednekar, learned A.P.P. for State.

Statement of complainant is recorded on 7th July 2006.

2. Applicant is apprehending arrest in connection with C.R.No.16 of 2006 registered with Alibag police station for offences punishable under section 323, 504 of I.P.C. and Section 3(1)(x) of Scheduled Caste and Scheduled Tribe (Prevention of Attrocities) Act, 1989 (for short Atrocities Act).

3. Submission of Mr.Patil is that mandatory requirement postulated by law viz., that for the enactment to apply, the complainant must mention that he belongs either to a scheduled caste or scheduled tribe which terms have been assigned the same meaning as under clauses 24 and 25 of Article 366 of the Constitution of India is not complied with in this case. He submits that complaint is of commission of non-bailable

offence under Atrocities Act. In this case, the person who is not a member of scheduled caste or scheduled tribe is alleged to have intentionally insulted or intimidated with intent to humiliate a member of scheduled caste or scheduled tribe in a place within public view. For that offence to be proved, complainant has to show that he belongs to scheduled caste or scheduled tribe. In other words, he must mention that he belongs to this category. If this essential ingradient is lacking in the F.I.R. or in the statement, based upon which investigations have commenced, then offence is not made out.

4. Learned A.P.P. could not dispute that in the present case, in the statement, the complainant has not referred to his caste. On the other hand, reliance is sought to be placed upon the utterances of the applicant. However, considering the law laid down by this Court in the decision reported in 2005 All.M.R. (Crime)

2602, that would not meet the mandatory pre-requisite prescribed by law.

5. In these circumstances and when it is not denied that other offences under I.P.C. are bailable, the applicant is entitled to be enlarged on bail, in the event of his arrest in the subject C.R. Hence following order:-

i) In the event of the arrest of the applicant in connection with C.R.No.16 of 2006 registered with Alibag Police Station, the applicant shall be enlarged on bail in the sum of Rs.5000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the Alibag police station twice a week on every Wednesday and Saturday between

10.00 a.m. and 12.00 noon.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the

benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)